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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/809,904

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Mitsuaki Oshima

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EXAMINER

AGWUMEZIE, CHARLES C

ART UNIT

PAPER NUMBER

3685

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/809,904	<b>Applicant(s)</b> OSHIMA ET AL.	
	<b>Examiner</b> CHARLES C. AGWUMEZIE	<b>Art Unit</b> 3685	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 39-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/26/04; 01/11/07</u> .                                       | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Acknowledgments**

1. Applicants' amendment filed on March 10, 2009 is acknowledged. Accordingly claims 39-44 remain pending.

### **Submitted New Drawing Fig. 3A**

2. The submitted new drawing fig. 3A is unacceptable because it introduces new matter which was not disclosed in the original drawings. The new drawing submitted on March 10, 2009 indicates an overlap between the first recording area and the second recording area which was not disclosed in the originally filed specification nor on the original filed drawing. Accordingly it is Examiner's position that that the new submitted drawing introduces a new matter not supported by the original filings. Examiner's initiated interview with Applicant's representative on June 15, 2009 failed to disclose information sufficient to support the modification submitted via the new drawing of fig. 3A. Accordingly the new fig. 3A is hereby rejected and has been placed on file.

### ***Response to Arguments***

3. Applicant's arguments filed March 10, 2009 have been fully considered but they are not persuasive.
4. With respect to **claims 39 and 41**, Applicant argues that Sekiguchi and Fujiwara fail to teach or suggest applicants' claimed "auxiliary information presence indicator including whether said auxiliary information is present in the second recording area."

Applicant further states that the claimed auxiliary information presence indicator is in the control data area within the first recording area. In other words, applicants' claimed auxiliary information presence indicator is located in an area different from the area in which the actual auxiliary information is located. That Sekiguchi describes only an auxiliary signal amplitude detector 19 which detects auxiliary information itself from a reproduced signal of the auxiliary information.

In response, Examiner respectfully disagrees with Applicant's characterization and submits that the auxiliary presence indicator of the applicant's invention is equivalent to the auxiliary signal amplitude detector as disclosed and described by Sekiguchi. Both the auxiliary presence indicator and auxiliary signal amplitude detector are read before determination of the presence of the auxiliary information can be made contrary to the Applicant's argument and both determine presence of auxiliary information.

5. Applicant further argues that there is no separate indicator within the information recording area of Sekiguchi indicating the presence of any auxiliary data.

In response, Examiner respectfully disagrees and submits that the auxiliary signal amplitude detector is different from the auxiliary data itself. If the auxiliary signal amplitude detector is the same as the auxiliary data itself how, then does the auxiliary signal amplitude detector determine the presence of itself as applicant appears to argue. Accordingly the auxiliary signal amplitude detector is different from the auxiliary data.

***Terminal Disclaimer***

6. The terminal disclaimer filed on July 10, 2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S Patent No. 6,081,785 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 39-43**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sekiguchi et al (hereinafter "Sekiguchi") U.S. Patent No. 5,253,241 in view of Fujiwara et al (hereinafter "Fujiwara") U.S. Patent No. 5,251,011.

9. As per **claims 39 and 41**, Sekiguchi discloses an optical disk comprising:

a first recording area for recording information (see fig. 6, which discloses recording area 1; see col. 5, lines 15-40);

a second recording area at a radially inward portion of said first recording area and having auxiliary information including disk identification information unique to said optical disk recorded therein, wherein said second recording area comprises

circumferentially arranged multiple stripe patterns, each stripe of which extends along a radius of the disk (see fig. 6, which discloses recording area 2; see col. 5, lines 15-40);

a control data area at a radially outward portion of the disk relative to the second recording area (see fig. 2; which discloses recording control signal; col. 5, lines 40-55); and the control data area comprising

an auxiliary information presence indicator indicating whether said auxiliary information is present in the second recording area (see fig. 7; which discloses auxiliary signal amplitude detector; col. 5, lines 40-55, which discloses detecting the amplitude of the auxiliary signals),

wherein said stripe patterns have a lower reflectivity than an average reflectivity of an area between one stripe pattern and another stripe pattern.

**10.** What Sekiguchi did not explicitly teach is:

wherein said stripe patterns have a lower reflectivity than an average reflectivity of an area between one stripe pattern and another stripe pattern. Sekiguchi however discloses the concept of reading an information signal on the basis of the resultant reflected beam from the optical reproduction disk

**11.** Fujiwara discloses:

wherein said stripe patterns have a lower reflectivity than an average reflectivity of an area between one stripe pattern and another stripe pattern (col. 2, lines 30-40, which discloses that the surface has a high contrast reflectance which varies from place to place...).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Sekiguchi and incorporate the method, wherein said stripe patterns have a lower reflectivity than an average reflectivity of an area between one stripe pattern and another stripe pattern in view of the teachings of Fujiwara since the claimed invention is merely a combination of old and known elements, and in the combination each element merely would have performed the same function as it separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**12.** As per **claims 40**, Sekiguchi further discloses the optical disk, wherein said second recording area is recorded at a lower frequency than in an area of said first recording area other than said second recording area (col. 4, lines 20-45, which discloses having different frequency components from one another).

**13.** As per **claim 42**, Sekiguchi further discloses the reproducing method, wherein the detecting the signal of said second recording area comprises:

separating with a low pass filter said reproducing signal of said second recording area and a reproducing signal of an area of said first recording area other than said second recording area (col. 5, lines 55-60; col. 6, lines 2-20)

**14.** As per **claim 43**, Sekiguchi further discloses the optical disk recording, wherein the circumferentially arranged multiple stripe patterns contain auxiliary information including disk identification information (see figs. 3 and 6)

As per claim 43, Sekiguchi further discloses the optical disk wherein the auxiliary information is recorded with a modulation different from a modulation of the main data (see fig. 15; col. 4, lines 20-45, which discloses switching between ...auxiliary signal and ... information signal DATA1; col. 7, lines 10-25, which discloses the process of varying the recording wavelength on the medium in relation to another wavelength).

### ***Conclusion***

**15.** Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Charles C.L. Agwumezie** whose number is **(571) 272-6838**. The examiner can normally be reached on Monday – Friday 8:00 am – 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Calvin Hewitt** can be reached on **(571) 272 – 6709**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charlie C Agwumezie/  
Primary Examiner, Art Unit 3685  
June 15, 2009